APPENDIX TO PETITION FOR CERTIORARI

(Questions Presented to Supreme Court of Pennsylvania)

Statement of Questions Involved.

Where a patent owner sues his licensee for an accounting of royalties under a license:

1. May the court give to the patent in suit a scope inconsistent with the disclosure of the patent and to cover subject matter disclaimed by the patentee in the Patent Office? *(Affirmed)*

2. Is defendant permitted to show that the patent under which he is licensed cannot be construed to cover the articles for which plaintiff seeks an accounting? *(Negatived)*

3. May the defendant offer proof of the illegality of the license including proof of invalidity of the patent if the license contains price-fixing provisions? *(Negatived)*

4. May the court apply the so-called "Blue Pencil Rule" to strike out the price-fixing provisions of the license and decree an accounting for royalties established by such price-fixing provisions? *(Affirmed)*

5. May the court by applying local rules of estoppel compel defendant to account under a patent which is *prima facie* invalid? *(Affirmed)*

6. Is defendant permitted to show that the claims of the patent in suit have no utility and do not

define any invention within the meaning of Section 4888 of the Revised Statutes (U.S.C., Title 35, Sec. 33)? *(Negatived)*

7. May appellant recover royalties involuntarily paid to appellee under legal duress and under the provisions of an illegal agreement? *(Negatived)*

8. May the defendant to a suit for an accounting under an illegal license agreement violating the Sherman Act, recover damages from the plaintiff? *(Negatived)*